The Inescapability of Moral Luck

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Abstract: I argue that any account attempting to do away with *resultant* or *circumstantial* moral luck is inconsistent with a natural response to the problem of *constitutive* moral luck. It is plausible to think that we sometimes contribute to the formation of our characters in such a way as to mitigate our constitutive moral luck at later times. But, as I argue here, whether or not we succeed in bringing about changes to our characters is itself a matter of resultant and circumstantial moral luck. I conclude with a dilemma, both of horns of which require accepting some form of moral luck.

Keywords: Blameworthiness; Character-formation; Moral luck; Scope/degree distinction

1. Introduction

It is widely thought that an agent is blameworthy for an action or its consequences only to the extent that the action or consequence was under the agent's control and, thus, not just a matter of luck.¹ But, as Bernard Williams (1981) and Thomas Nagel (1979) demonstrate, many of our ordinary moral judgments and practices presuppose that there can be cases in which two agents may differ in blameworthiness despite the differences between them being just a matter of luck. Such cases are cases of *moral luck*, and they come in a variety of flavors. There can be differences in what results from the actions over which the agents do not possess control (resultant moral luck), differences in the circumstances in which two agents are embedded and over which they lack control (circumstantial moral luck), and even differences in how two agents are constituted over which they have no control (constitutive moral luck).² It appears, then, that the intuitive thought

¹ See Nelkin (2013), who refers to this intuitive thought as the "Control Principle."

² Nagel (1979) distinguishes these three types of moral luck as well as a fourth, *causal* moral luck, which is luck in one's actions being caused by events over which one had no control. It may be that this fourth category is redundant, since all instances of this type would also be instances of either circumstantial or constitutive moral luck—see Latus (2001)—but, in any case, I am setting

about control, on the one hand, and our ordinary moral judgments and practices, on the other, are in tension with each other.³

Some aim to resolve the tension by attempting to do away with moral luck.⁴ One way to do this is by becoming a skeptic about blameworthiness, but I will set aside that position here.⁵ Another way to resolve the tension is by maintaining that agents may be blameworthy but that their blameworthiness is never affected by luck, at least luck in results or in circumstances.⁶ As I will argue in sections 3 and 4, however, any account attempting to do away with *resultant* or *circumstantial* moral luck is inconsistent with a natural response to the problem of *constitutive* moral luck. It is plausible to think that we sometimes contribute to the formation of our characters in such a way as to mitigate our constitutive moral luck at later times. In section 3, I will provide

aside causal moral luck here. For an excellent discussion of resultant moral luck in particular, see Sartorio (2012).

³ I am assuming what Robert Hartman calls the "Standard View" of moral luck, which presupposes a conception of luck as a lack of control. Some disagree with this conception of luck, but see Hartman (2017, chapter 2) for a defense of the lack of control conception.

⁴ Throughout the paper I contrast "doing away" with moral luck, on the one hand, with "accepting" moral luck, on the other. These expressions are simply labels for classes of positions one might take regarding moral luck, and I do not intend to commit to some set of principles relating the reality of moral luck to the theoretical role played by moral luck-talk. Thanks to an anonymous reviewer for raising this point.

⁵ For defenses of skepticism about blameworthiness, see Strawson (1994) and Levy (2011). Unlike the two alternatives I'll discuss in this paper, skepticism apparently implies that many of our ordinary moral judgments and practices are mistaken. This counts against the skeptic's response to moral luck, in my view, so unless the alternatives suffer greater problems than this, we have reason to reject the skeptical position. For a further response to Strawson, see Hartman (2018), and for a further response to Levy, see Hartman (2017, chapter 3) and Cyr (2019a).

⁶ It is worth mentioning a third type view, the "character solution" to resultant and circumstantial moral luck, defended by Richards (1986), Thomson (1989), and Rescher (1990), according to which there is no resultant or circumstantial moral luck "because people are originally praiseworthy and blameworthy in virtue of, and only in virtue of, their good and bad character traits" (Hartman 2020a: 105). See Hartman (2020a) for discussion and objections. In addition to Hartman's worries, these views are plagued by far more constitutive moral luck than the account that I sketch later in the paper. In any case, proponents of the character solution would readily admit the reality of moral luck.

a sketch of this account, offering some examples to motivate its intuitive plausibility. But, as I go on to argue in section 4, whether or not we succeed in bringing about changes to our characters is itself a matter of resultant and circumstantial moral luck. My main aim in this paper is to show that if we accept this plausible account of the mitigation of constitutive moral luck, then we must accept circumstantial and resultant moral luck.⁷

If I am right about this, we face a dilemma: either we deny that our constitutive moral luck may be mitigated by character-formation, or we must admit the reality of resultant and circumstantial moral luck. I will conclude, in section 5, by considering whether the dilemma can be evaded by employing the scope of blameworthiness/degree of blameworthiness distinction in responding to the problem of constitutive moral luck. Appealing to cases (familiar from the literature on free will and the historicity of moral responsibility) of radical character-formation brought about by manipulation and initial design, I argue that such a proposal fails to take seriously the ways in which constitutive moral luck can mitigate blameworthiness, and I conclude that moral luck is inescapable.

2. The Scope/Degree Response to Resultant and Circumstantial Moral Luck

According to one proposal that attempts to do away with certain types of moral luck while at the same time resisting skepticism about blameworthiness, it is crucial to distinguish between the scope of an agent's blameworthiness, on the one hand, and the degree of her blameworthiness,

⁷ As far as I know, this point has not been made explicit in the literature on moral luck, though after writing this paper I saw a draft of Hartman (Forthcoming), which includes an abbreviated discussion of this point.

on the other.⁸ To see how this distinction is meant to help in doing away with moral luck, consider the following case by Michael Zimmerman:

Suppose that George shot at Henry and killed him. Suppose that Georg shot at Henrik in circumstances which were, to the extent possible, exactly like those of George (by which I mean to include what went on "inside" the protagonists' heads as well as what happened in the "outside" world), except for the fact that Georg's bullet was intercepted by a passing bird (a rather large and solid bird) and Henrik escaped injury. Inasmuch as the bird's flight was not in Georg's control, the thesis that luck is irrelevant to moral responsibility implies that George and Georg are equally morally responsible. This, I believe, is absolutely correct. (2002: 560)

In this case, George and Georg have exactly the same amount of control over their respective assassination attempts, and the difference in what results (Henry's death, in George's case, and a failed assassination attempt, in Georg's case) lies outside of their control. Given this, the two should be considered equally blameworthy. Unless we are skeptics about blameworthiness, however, we will want to say that George is blameworthy for Henry's death, yet Georg is not blameworthy for Heinrik's death (since, in his case, the assassination attempt failed).

Zimmerman goes on to explain how the scope/degree distinction may be used to resolve this tension:

I do not wish to deny that George is responsible for killing Henry...And, of course, I concede that Georg is not responsible for killing Henrik (or for Henrik's death), since Henrik did not die. Thus I am quite willing to grant that George may well be *responsible*

⁸ See especially Zimmerman (2002). While I focus primarily on Zimmerman's version of this view, my argument extends to any non-skeptical attempt to do away with moral luck, including, e.g., Enoch and Marmor (2007) and Swenson (2019).

for more things than Georg. What I deny is that George is any *more responsible* than Georg. We must distinguish the *degree* of someone's responsibility from its *scope*. (The term 'extent' strikes me as ambiguous between the two.) My claim is that George and Georg bear responsibility to the same degree, despite the fact that George's responsibility has greater scope. (2002: 560-561)

On Zimmerman's view, an agent can be blameworthy for more things without being more blameworthy (i.e., an agent's degree of blameworthiness can remain constant while the scope of her blameworthiness varies) and, in addition, if the result of someone's action is a matter of luck then one would be just as blameworthy whether or not the result occurred. In the case of George and Georg, the two are equally blameworthy even though George is blameworthy for more things (his attempt plus the Henry's death). Since this view denies that two agents with equal control can differ in degree of blameworthiness for the un/lucky results of their behavior, this scope/degree proposal precludes the possibility of resultant moral luck.

Moreover, the scope/degree response may be extended to address the problem of circumstantial moral luck. Consider another case Zimmerman introduces, this time of apparent circumstantial moral luck:

Return to George and Henry and their counterparts, Georg and Henrik. Suppose, as before, that George shot at Henry and killed him. Suppose also, as before, that Georg did not kill Henrik; suppose now, however, that this was not because he took a shot that was intercepted by some unfortunate bird, but rather because he took no shot at all. And suppose that this was because of something quite fortuitous: Georg sneezed just as he was about to shoot, for example...Whereas in the case involving the bird, luck intervened after the shot took place, thereby preventing Henrik's death, in this sort of case the intervention occurs

earlier, before Georg has a chance to act at all. But the cases are united in that, in all of them, Georg would have freely killed Henrik but for some feature of the case over which he had no control. This being so, it seems that we must conclude here, as before, that Georg is as culpable as George. (2002: 563)

As in the case of resultant moral luck, it is possible to do away with circumstantial moral luck by appealing to the distinction between the scope and degree of blameworthiness. In this case, in addition to the claim that an agent can be blameworthy for more things without being more blameworthy, this proposal says that if an agent performed an action partly because she was embedded in certain circumstances (over which she had no control) then the agent would be just as blameworthy as if she was not in those circumstances and had not performed the action. And since this view denies that two agents with equal control can differ in degree of blameworthiness for the actions that depend on un/lucky circumstances, this scope/degree proposal precludes the possibility of circumstantial moral luck.

3. How to Solve the Problem of Constitutive Luck

We will return below to the scope/degree response to various types of moral luck, but let us set aside this response for a moment and consider a natural response to the problem of constitutive moral luck. As the name suggests, constitutive luck is luck in how an agent is constituted. More specifically, for an agent to be constitutively lucky in having some aspect of her character, values, etc. is for those features of her constitution to be a matter of luck (i.e., outside of her control). This becomes a case of *moral* luck when two agents differ in how they are constituted, have no control over how they are constituted, and differ in their degree of blameworthiness for acting from their different constitutions. We can express the problem of constitutive moral luck rhetorically as follows: given that we rarely have control over our constitution, how is it possible for us to be blameworthy for anything we do? But this worry can be met by reflecting on how agents do exert some control over their constitutions, thereby mitigating their constitutive luck. While everyone agrees that all agents are at least sometimes entirely constitutively lucky (at the very least, we are all entirely constitutively lucky at the start of our lives), it is possible, I will argue, for agents to contribute to the formation of their characters in a way that diminishes their constitutive luck at later times.

To see how this process of diminishing constitutive luck might work, consider the following case from Alfred Mele:

Chuck is evil. He enjoys killing people, and he is wholeheartedly behind his murderous desires, which are "well integrated into his general psychic condition." When he was much younger, Chuck enjoyed torturing animals, but he was not wholeheartedly behind this. These activities sometimes caused him to feel guilty, he experienced bouts of squeamishness, and he occasionally considered abandoning animal torture. However, Chuck valued being the sort of person who does as he pleases and who unambivalently rejects conventional morality as a system designed for and by weaklings. He intentionally set out to ensure that he would be wholeheartedly behind his torturing of animals and related activities, including his merciless bullying of vulnerable people. One strand of his strategy was to perform cruel actions with increased frequency in order to harden himself against the feelings of guilt and squeamishness and eventually to extinguish the source of those feelings. His strategy worked. (2006: 171)

Concerning this case, it is quite natural to say that even if Chuck was entirely constitutively lucky earlier in his life, he is not entirely constitutively lucky to be a cruel person after the process of

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hardening himself to others' suffering, and thus Chuck may be more blameworthy for the bad things he does after this process than he is for the bad things done at the beginning.

More generally, we can respond to the problem of constitutive moral luck by endorsing the following two claims:

- It is possible for us to exercise indirect control over the formation of our characters by performing actions (for which we are responsible) that bring about changes to our characters at later times.
- 2) One can be more blameworthy when acting from a character over which one had some control than one would be if entirely constitutively lucky.

The first claim is supported by cases like Chuck's, but one need not have as fine-grained a plan for shaping one's character to be morally responsible for bringing about changes to one's character; if it is reasonably foreseeable that one's character will be shaped by one's present actions (over which one has control), one may be morally responsible for bringing about a change to character.⁹ The second claim is supported by the widely accepted (and intuitive) idea that luck mitigates blameworthiness; the more it is a matter of luck that an agent performed a certain action, the less control the agent exercised in performing that action and so the less the agent is blameworthy for it.¹⁰

⁹ Another way to put this point is that it seems that both the control and epistemic conditions on moral responsibility may be met with respect to actions that shape one's character. There is some debate about whether the epistemic condition can be met in cases of "tracing" (indirect control). See Vargas (2005) for worries about this, but see Fischer and Tognazzini (2009) for a reply.

¹⁰ One might demur here, saying that agents like Chuck are blameworthy for more things (for developing their character and also for performing bad actions after forming a bad character) but not more blameworthy for particular actions after the process of character-formation. This view suffers the objections I raise in section 5. See also Cyr (2019a; 2019b; 2020) and Hartman (2020b).

According to this proposal, there are instances of complete constitutive moral luck (cases in which agents have exerted absolutely no control over their characters), but because typical agents have had opportunities to shape their character over time, instances of this type of moral luck occur only in marginal cases (including the beginning of one's life and extreme cases of character-change over which an agent has no control).¹¹ Thus, on this view, there is constitutive moral luck, but it is not so pervasive as to threaten blameworthiness at every point in agents' lives.¹²

4. Solving the Problem of Constitutive Luck Requires Resultant and Circumstantial Luck

As it turns out, however, this natural response to the problem of constitutive moral luck is inconsistent with any account attempting to do away with resultant or circumstantial moral luck, for the very process of character-formation is ridden with resultant and circumstantial moral luck. Consider again the case of Chuck, and notice that the connection between Chuck's actions (his shooting at animals) and the effect they have on his character depends on whether certain results obtain. Holding fixed what is within Chuck's control (his action), whether or not the animals are shot is (at least partly) a matter of resultant moral luck. In addition, whether or not Chuck is able to perform the relevant actions (shooting at animals) is a matter of circumstantial moral luck. And since (we may stipulate) the shooting of animals is essential to Chuck's moral degeneration (i.e., Chuck would not have degenerated otherwise), the process of character-formation depends on

¹¹ It may be that all of us are partly constitutively lucky, insofar as there are parts of our characters over which we cannot exercise even indirect control, but presumably we are not always *entirely* constitutively lucky.

¹² Some have argued that there is no way to mitigate our constitutive moral luck since any response to our "endowment" is itself infected by constitutive moral luck. See the defenses of skepticism referenced in note 5 for developments of this objection, as well as the replies referenced there.

factors outside of Chuck's control, including both circumstantial and resultant factors. More generally, when we perform actions that shape our characters, neither the circumstances that enable us to perform those actions nor the connection between those actions and the subsequent changes to our characters are under our direct control, and so the very process of character-formation will always involve some degree of luck.¹³

To illustrate this point and the problem it raises for the scope/degree response to moral luck, consider a variant on the Chuck case. Another agent, Charles, might have attempted to shoot the same animals but, because of a gust of wind, might not have succeeded and thus would not have made himself as cruel as Chuck. According to the scope/degree response to resultant moral luck, Chuck and Charles are equally blameworthy at the time of their hunting, though Chuck may be blameworthy for results that don't obtain in Charles's case (and yet not more blameworthy). But, on the line I've suggested for thinking about constitutive moral luck, Chuck may be less constitutively lucky at later times than Charles—and thus may be more blameworthy at later times than Charles goes hunting on several occasions but never comes across any animals. According to the scope/degree response to circumstantial moral luck, Chuck and Charles are equally blameworthy at the time of their hunting trips (when they have the very same intentions to

¹³ One might wonder whether there is any residual control over our character formation that is not distorted by resultant and circumstantial moral luck. (Thanks to an anonymous reviewer for raising this question.) For there to be a case in which a person's character formation was not subject even simply to circumstantial moral luck, it would have to be the case that the agent was in (total) control of the circumstances or would have developed in exactly the same way no matter the circumstances (i.e., even if the circumstances had been radically different). I do not claim that such circumstantial-moral-luck-free character formation is impossible, but I find it highly unlikely that such scenarios ever actually occur in the lives of ordinary agents.

torture animals), though Chuck may be blameworthy for killing animals that Charles never encounters. But, again, on the plausible account of how constitutive moral luck may be mitigated, Chuck may be less constitutively lucky at later times than Charles—and thus may be more blameworthy at later times than Charles—despite the difference between them being a matter of (circumstantial) moral luck.

Given that the process that we ordinarily assume mitigates constitutive moral luck is itself ridden with resultant and circumstantial moral luck, we must either deny that constitutive moral luck may be mitigated in the way we ordinarily assume, or we accept that there can be (and is) resultant and circumstantial moral luck. Either way, we're stuck with moral luck. On one horn of the dilemma, we allow constitutive moral luck (and more of it than is intuitive, since this horn rejects the mitigation proposal); on the other horn, we must accept resultant and circumstantial moral luck. My aim here has been to develop the dilemma, but, since I find it rather implausible to reject the common-sense picture of the mitigation of constitutive moral luck in order to maintain that there is no resultant or circumstantial moral luck, my own inclination is to accept the dilemma's second horn.¹⁴

5. Can We Escape the Dilemma?

I have argued that accepting the natural solution to the problem of constitutive moral luck requires admitting the existence of resultant and circumstantial moral luck, since we must either

¹⁴ I have not provided any reason for accepting the second horn beyond the point that this follows from a plausible picture of how constitutive moral luck is mitigated. Some theorists—such as quality of will theorists, who take an agent's blameworthiness to depend only on the agent's quality of will—will have antecedent reason to countenance a larger quantity of constitutive moral luck than I think is plausible, and such theorists will therefore have antecedent reason to accept the first horn of the dilemma. Thanks to an anonymous reviewer for pointing this out.

deny that our constitutive moral luck may be mitigated by character-formation, or we must admit the reality of resultant and circumstantial moral luck. A potential objection to the dilemma says that we need not accept my proposed solution to the problem of constitutive moral luck. Instead, according to the objection, we can use an appropriately modified scope/degree response to the problem of constitutive moral luck. While this approach to constitutive moral luck would deny the natural thought that we sometimes mitigate our constitutive moral luck over time by exercising indirect control over our character-formation, it would deny the reality of constitutive moral luck by claiming that if an agent performed an action partly because of her constitution (over which she had no control) then the agent would be just as blameworthy as if she had some other constitution and had not performed the action.

But this approach to constitutive luck is unpromising, for it fails to take seriously the way in which constitutive luck mitigates control (and thus blameworthiness). Consider another case from Mele:

Ann is a free agent and an exceptionally industrious philosopher. She puts in twelve solid hours a day, seven days a week, and she enjoys almost every minute of it. Beth, an equally talented colleague, values many things above philosophy for reasons that she has refined and endorsed on the basis of careful critical reflection over many years. Beth identifies with and enjoys her own way of life, and she is confident that it has a breadth, depth, and richness that long days in the office would destroy. Their dean wants Beth to be like Ann...Without the knowledge of either philosopher, he hires a team of psychologists to determine what makes Ann tick and a team of new-wave brainwashers to make Beth like Ann. The psychologists decide that Ann's peculiar hierarchy of values accounts for her productivity, and the brainwashers instill the same hierarchy in Beth while eradicating all competing values—via new-wave brainwashing, of course. Beth is now, in the relevant respect, a "psychological twin" of Ann. (2006: 164-165)

Suppose that, upon being manipulated, Beth fails to fulfill a promise to pick up her friend from the airport, spending some extra time at the office to review a manuscript instead, and suppose that Ann (who was not manipulated) does exactly the same thing. Intuitively, if Beth is at all blameworthy for staying to review the manuscript, she is not *as blameworthy* as Ann is, for Ann had more control over her behavior than Beth had over hers (given her recent manipulation). According to the scope/degree proposal concerning constitutive moral luck, however, Beth and Ann must be equally blameworthy.¹⁵ Additionally, according to this proposal, even if Beth had *not* been manipulated, because she would have acted differently had her constitution been different (and since she had no control over this), she would be *just as blameworthy* as Ann and manipulated-Beth despite never failing to fulfill the promise to her friend. Given these incredibly counterintuitive implications of the scope/degree proposal concerning constitutive moral luck, it would be better, I conclude, to admit that we face the dilemma introduced above and thus that moral luck is inescapable.

¹⁵ As Bob Hartman has pointed out to me, Zimmerman's strategy does not apply easily to the Ann/Beth case, for Zimmerman's strategy aims to show that a person who performs an action can be just as blameworthy as her counterpart who does not perform that action but would have performed that action if she had the same constitutive luck, whereas the Ann/Beth case is one in which two agents with different constitutive luck do perform the same action. One could adopt Zimmerman's more limited strategy to avoid the problem I have just raised (although it would be surprising for the scope/degree response to be inapplicable to cases like the Ann/Beth case), but even Zimmerman's more limited strategy will be vulnerable to my next objection.

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